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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,241	09/16/2003	Michael Schatzberg		2377

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EXAMINER

GALL, LLOYD A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,241

Applicant(s)

SCHATZBERG, MICHAEL

Examiner

Lloyd A. Gall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The disclosure is objected to because of the following informalities: On page 3, line 8 should end with a period. On page 5, line 26, the leg 35 is not inserted through the end 40. See also page 6, line 1.

Appropriate correction is required.

The drawings are objected to because reference numeral 36 is not used to refer to the eyelet member (see page 4, the last line). Rather, reference numeral 36 is shown in fig. 2. Also, in figure 1, numeral "0" possibly should be replaced with "10" or "50" (see page 4, line 8). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The written description should provide support for the “arm” of claim 13, line 2.

Claims 11, 14 and 16 are objected to because of the following informalities: On page 8, line 22, there is no antecedent basis for “the outer distal end”. On page 9, line 14, there is no antecedent basis for “said first one”. On page 9, lines 14-15, there is no antecedent basis for “the gate poles”. On page 9, line 17, there is no antecedent basis for “said second one”. On page 9, line 17, there is no antecedent basis for “the gate poles”. Appropriate correction is required.

Applicant should note that limitations such as “secured to a first one of the gate poles” on page 7, line 6 and page 8, line 1 is regarded as positively claiming the gate poles in claims 1-10.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by the British reference (094).

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As seen in figs. 3 and 4, the British reference teaches a safety latch mounted to first and second door structures, including a first eyelet member C,C', a padlock received through a generally ring-shaped outer distal end (a4) of a hook (a), the hook including a generally L-shaped arm (a'), and a second eyelet member b,b'.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over the British reference (094) in view of Bohen.

As seen in fig. 6, Bohen teaches a safety latch as also including a spring-loaded tang 60 on a hook and L-shaped arm. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a spring-loaded tang with the hook and L-shaped arm of the British reference, in view of the teaching of Bohen, the motivation being to allow the hook to be latched without being locked, to allow the degrees of security of the latch to be varied, when desired.

Claims 1, 3, 6, 11, 14, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohen in view of Stark or Crecelius.

Bohen teaches a gate poles 16a, 16b and mesh screening material 14 being latched with a first eyelet 24, 57, a second eyelet 24, 56, and a hook and spring-loaded tang 60. Stark teaches an outer distal end of a hook extending through a second eyelet 7 to receive a padlock , as does Crecelius. It would have been obvious to one of ordinary

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skill in the art at the time the invention was made to provide an opening in the outer distal end of the hook of Bohen to receive a padlock, in view of the teaching of either Stark or Crecelius, the motivation being to allow the gate to be locked against unauthorized use, when desired.

Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Bohen reference as applied to claims 1 and 14 above, and further in view of Schwartz.

Schwartz teaches eyelet threaded ends 18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute threaded ends for the eyelets of Bohen, in view of the teaching of Schwartz, the motivation being to simplify assembly of the eyelets.

Claims 4, 5, 12, 13, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Bohen reference as applied to claims 1, 11 and 14 above, and further in view of the British reference (094).

The British reference teaches a generally ring-shaped distal end (a4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the distal end of the hook of Bohen as modified by Stark or Crecelius to include a generally ring shape, in view of the teaching of the British reference, since any shape which receives a padlock would function just as well in locking the hook of Bohen.

Claims 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohen in view of either Stark or Crecelios, and the British reference (094).

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All of the references have been discussed above. It would have been obvious to modify the outer distal end of the hook of Bohen to receive a padlock, in view of the teaching of either Stark or Crecelius, to allow the hook to be locked against unauthorized use, when desired. It would have been obvious to modify the distal end of the hook of the modified Bohen reference to be generally ring-shaped, since any shape which receives a padlock would function just as well in locking the hook of Bohen.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Bohen reference as applied to claim 7 above, and further in view of Schwartz. Schwartz has been discussed above. It would have been obvious to modify the eyelets of Bohen to include threaded ends, in view of the teaching of Schwartz, the motivation being to simplify installation of the eyelets.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 703-308-0828. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 703-308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LG LG
September 3, 2004


Lloyd A. Galt
Primary Examiner